IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	YOUNG, Alan, et al.
Application No.	09/728,471
Filed:	November 30, 2000
For:	**SYSTEM AND METHOD FOR PERFORMING AN ELECTRONIC TRANSACTION USING A TRANSACTION PROXY WITH AN ELECTRONIC WALLET**
Examiner:	Shaawat, Mussa A.
Group Art Unit:	3627

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APPEAL BRIEF

Sir:

This is an Appeal Brief under 37 C.F.R. § 41.37 in connection with the decision of the Examiner mailed on November 16, 2007. A Response After Final Office Action and a Notice of Appeal were filed on February 19, 2008 setting the time for filing an Appeal Brief to expire on April 19, 2008, absent an extension. A one-month extension of time is being submitted herewith to extend the period for filing the Appeal Brief up to and including May 19, 2008.

This Appeal Brief fully complies with all provisions of 37 CFR 41.37(c) and each of the topics required by § 41.37 is presented herewith and is labeled appropriately. It is not believed that any additional fees are due, but if so, please charge any deficiency to Deposit Account No. 50-4402.

(1) Real Party In Interest

The real party in interest is Citibank, N.A.

(2) Related Appeals And Interferences

Applicants previously appealed a final rejection and filed an Appeal Brief on November 17, 2006, whereupon on November 16, 2007, in lieu of an Examiner's Answer, the Examiner purported to reopen prosecution with a new final rejection adding another secondary reference which necessitated the present appeal. There are no other appeals or interferences related to this case.

(3) Status of Claims

Claims 1, 4-7, 9, 10, 12, 14-16, 23, 25, 46, and 62-69 are pending and all have been rejected.

Claims 2, 3, 8, 11, 13, 17-22, 24, 26-45, 47-61, and 70 have been canceled.

No claims have been allowed.

No claims have been withdrawn.

Claims 1, 4-7, 9, 10, 12, 14-16, 23, 25, 46, and 62-69 are hereby appealed.

(4) Status of Amendments

There are no amendments after final rejection.

(5) Summary of Claimed Subject Matter

Independent claim 1 proposes a method of operating a computer system for data management of an electronic transaction that involves receiving in a transaction portal server via a wireless communication switching facility coupled to the transaction portal server over a global network a unique product and merchant identifying code entered by a customer on a wireless communication device coupled to the wireless communication switching facility and identifying a product and a merchant associated with the product and merchant identifying code by the

transaction portal server from a database of the transaction portal server storing product and merchant identifying code data for a plurality of merchants (See, e.g., Specification, p. 9, lines 1-18; p. 13, line 26-p. 15, line 22 and Figs. 1-3). By way of explanation, referring to FIG. 1, according to embodiments of the invention, an individual 5 is furnished an electronic communications device 10, such as a mobile telephone 10, that is interface enabled in that it includes the hardware, communications software, and browser software needed to access, receive, and browse content from the Internet, which mobile telephone 10 includes a display screen for displaying content from the Internet. The mobile telephone 10 is in communication with a wireless gateway 12 that includes, e.g., a mobile switching center and communication facilities allowing the gateway to communicate via a computer network, such as the Internet. The wireless gateway 12 is in communication via the Internet with a transaction portal server 14 which includes, e.g., files (software) comprising an electronic transaction portal 15 (See, e.g., Specification, p. 9, lines 1-18 and Figs. 1-3.)

By way of further explanation, in embodiments of the invention, a product code is associated with at least some of the products offered for purchase by the merchant 42, e.g., beside a picture of a product in a catalog or on web pages. Examples of product codes include unique identifying numbers for each product or short-hand descriptions or brand names of products, alphanumeric codes, or other identifiers. Embodiments of the invention provide additional digits to the front end of a conventional code, e.g., in order to identify the specific merchant, so that the portal 17 can route the information to the specific merchant. Using an example of a consumer viewing a coat in a retail store, assume a product code of 11290529 is displayed next to the coat. The digits 112 indicate the particular merchant operating the retail store and associated with the merchant server 20 and the digits 90529 indicate a particular product, such as the coat. The consumer wishing to purchase the coat, activates the consumer's mobile telephone and accesses the transaction portal 15 present in the transaction portal server 24 via the mobile network by clicking on (or activating) an icon on the display screen of the mobile telephone associated with the portal 15. The consumer views content from the portal 15 on a display screen of the mobile telephone and is prompted to provide a product code of interest, in response to which the consumer enters product code data consisting of the product code, 11290529. The entered product code is transmitted by the mobile telephone 10 via the mobile

network 30 to the transaction portal server 24, which determines the merchant associated with the product code received 45, e.g., by accessing a database in the transaction portal server storing merchant identifying information correlated with product codes. (See, e.g., Specification, p. 13, line 26-p. 15, line 22 and Figs. 1-3.)

Independent claim 1 further proposes retrieving product information data by the transaction portal server from a product database of a merchant server coupled to the transaction portal server over the global network and displaying the product information data by the transaction portal server on a display screen of the wireless communication device for the customer (See, e.g., Specification, p. 15, line 23-p. 16, line 10; and Figs. 1-3). By way of explanation, referring to FIG. 3 for embodiments of the invention, once the portal determines the merchant associated with the product code received 45, the portal 15 accesses a product data database at a web server of the merchant 20 via the Internet 46, which database contains information (e.g., a short description of the product, such as 'winter coat', a brand name of the product, a size, and a color) about the product associated with the 1129 product code, and the portal 15 retrieves that information from the database and sends the product data via the mobile network 30 to the mobile telephone 48, which displays the product data on the display screen of the mobile telephone for viewing by the consumer (See, e.g., Specification, p. 15, line 23-p. 16, line 10 and Figs. 1-3.)

Independent claim 1 additionally proposes receiving by the transaction portal server the customer's indication to purchase the product entered by the customer on the wireless communication device and retrieving default payment method information for the customer by the transaction portal server from an electronic wallet server (See, e.g., Specification, p. 16, line 10-p. 17, line 7; and Figs. 1-3). By way of explanation, in embodiments of the invention, the consumer provides a signal to the portal using the mobile telephone indicating that the consumer wishes to purchase the indicated product, e.g., by pressing "1" on the consumer's mobile telephone in response to the display of the product data, and the mobile telephone 10 sends the purchase indication to the portal 15 via the mobile network 30. The portal 15 receives the purchase indication from the mobile telephone 10, and accesses an electronic wallet 17 of the mobile telephone user 52, which electronic wallet is located, e.g., on the transaction portal

server. The purchase indication includes, e.g., identifying data for the electronic wallet 17 that allows the portal 15 to access the wallet 17 (e.g., IP address, user name, and password), which includes, e.g., payment data related to the user 5 previously entered by the user, such as a preferred method of payment comprising a credit card type, number, and expiration date for the user 5, and also contains shipping detail data (a shipping address), as well as user-identifying information (e.g., name and e-mail address) (See, e.g., Specification, p. 16, line 10-p. 17, line 7 and Figs. 1-3).

In addition, independent claim 1 proposes displaying the default payment information by the transaction portal server on the display screen of the wireless communication device for the customer and receiving payment option data comprising information describing a desired means of payment for the product by the transaction portal server entered by the customer on the wireless communications device (See, e.g., Specification, p. 17, line 7-p. 18, line 1; and Figs. 1-3). By way of explanation, in embodiments of the invention, the payment data from the wallet is displayed to the user 5 on the mobile telephone display, whereupon the user may select the information shown as correct (the shipping address and payment method) or may alter it to provide different shipping detail data and different method of payment selection. In addition, the wallet may contain previously-entered information related to various payment options (e.g., various credit card numbers and related information, and various debit card numbers and related information), and the user may choose from any one of the shown options, or enter a new method of payment. The shipping detail data and payment option data comprising data reflecting desired means of payment is sent from the mobile telephone 10 via the mobile network 30 to the portal 15, which receives the shipping detail data and payment option data reflecting the desired means of payment (credit card) from the mobile telephone 54, 56 (See, e.g., Specification, p. 17, line 7-p. 18, line 1; and Figs. 1-3).

Independent claim 1 also proposes transmitting payment authorization data to a payment processor by the transaction portal server and receiving a payment authorization by the transaction portal server from the payment processor (See, e.g., Specification, p. 18, lines 1-10; and Figs. 1-3). By way of explanation, according to embodiments of the invention, the portal 15 transmits payment authorization to a payment processor, such as the issuer of the credit card

reflected in the payment option data, which payment authorization includes data identifying the user (e.g., the name from the electronic wallet), data identifying the merchant from which the product is being purchased, and data relating to the product purchased (e.g., a purchase price and an identifier). The payment processor 18 receives the data and provides authorization to the portal 15 (See, e.g., Specification, p. 18, lines 1-10; and Figs. 1-3).

Further, independent claim 1 proposes transmitting order information to a check-out application of the merchant server by the transaction portal server and causing the electronic wallet server to complete payment and shipping information fields in an order fulfillment database of the merchant server by the transaction portal server (See, e.g., Specification, p. 18, lines 11-24; and Figs. 1-3). By way of explanation, according to embodiments of the invention, the portal 15 transmits order information to the merchant 20, e.g., to the check-out application (software) residing on the merchant's web site. The portal 15 causes the wallet 17 to automatically complete the fields in the merchant's order fulfillment database. Order information includes purchaser identification (e.g., name, address, e-mail address), product identification (e.g., product code), shipping instructions (e.g., shipping address), the authorization from the issuer, and payment option data comprising description of the means of payment (e.g., credit card number, type, and expiration date) 60. The payment option data sent to the check-out application comprises information from the electronic wallet of the mobile telephone user 5. The electronic wallet of the user residing on the portal transmits the order information to the merchant 20 (See, e.g., Specification, p. 18, lines 11-24; and Figs. 1-3).

Independent claim 1 further proposes receiving by the transaction portal server order confirmation information from the merchant server and displaying the order confirmation information by the transaction portal server on the display screen of the wireless communication device for the customer (See, e.g., Specification, p. 18, lines 25-29; and Figs. 1-3). By way of explanation, in embodiments of the invention, the merchant 20 provides an order confirmation to the purchaser 62. The merchant provides a confirmation page showing a order identification number to the portal 15, which provides the page to the mobile telephone 10. (See, e.g., Specification, p. 18, lines 25-29; and Figs. 1-3.)

Independent claim 46 proposes a computer system for data management of an electronic transaction involving a transaction portal server pre-programmed for receiving via a wireless communication switching facility coupled to the transaction portal server over a global network a unique product and merchant identifying code entered by a customer on a wireless communications device coupled to the wireless communication switching facility and for identifying a product and a merchant associated with the product and merchant identifying code from a database of the transaction portal server storing product and merchant identifying code data for a plurality of merchants (See, e.g., Specification, p. 9, lines 1-18; p. 13, line 26-p. 15, line 22; and Figs. 1-3). As previously explained with reference to claim 1, by way of explanation, referring to FIG. 1 for embodiments of the invention, an individual 5 is furnished an electronic communications device 10, such as a mobile telephone 10, that is interface enabled in that it includes the hardware, communications software, and browser software needed to access, receive, and browse content from the Internet, which mobile telephone 10 includes a display screen for displaying content from the Internet. The mobile telephone 10 is in communication with a wireless gateway 12 which includes, e.g., a mobile switching center and communication facilities allowing the gateway to communicate via a computer network, such as the Internet. The wireless gateway 12 is in communication via the Internet with a transaction portal server 14 which includes, e.g., files (software) comprising an electronic transaction portal 15 (See, e.g., Specification, p. 9, lines 1-18 and Figs. 1-3).

As also previously explained with reference to claim 1, by way of further explanation, in embodiments of the invention, a product code is shown in association with at least some of the products offered for purchase by the merchant 42, e.g., beside a picture of a product in a catalog or on web pages. Examples of product codes include unique identifying numbers for each product or short-hand descriptions or brand names of products, alphanumeric codes, or other identifiers. Embodiments of the invention provide additional digits to the front end of a conventional code, e.g., in order to identify the specific merchant, so that the portal 17 can route the information to the specific merchant. Using an example of a consumer viewing a coat in a retail store, assume a product code of 11290529 is displayed next to the coat. The digits 112 indicate the particular merchant operating the retail store and associated with the merchant server 20 and the digits 90529 indicate a particular product which is the coat. The consumer wishing to

purchase the coat, activates the consumer's mobile telephone and accesses the transaction portal 15 present in the transaction portal server 24 via the mobile network by clicking on (or activating) an icon on the display screen of the mobile telephone associated with the portal 15. The consumer views content from the portal 15 on a display screen of the mobile telephone and is prompted to provide a product code of interest, in response to which the consumer enters product code data consisting of the product code, 11290529. The entered product code is transmitted by the mobile telephone 10 via the mobile network 30 to the transaction portal server 24, which determines the merchant associated with the product code received 45, e.g., by accessing a database in the transaction portal server storing merchant identifying information correlated with product codes. (See, e.g., Specification, p. 13, line 26-p. 15, line 22 and Figs. 1-3.)

Independent claim 46 also proposes that the transaction portal server is further pre-programmed for retrieving product information data from a product database of a merchant server coupled to the transaction portal server over the global network and for displaying the product information on a display screen of the wireless communications device for the customer (See, e.g., Specification, p. 15, line 23-p. 16, line 10; and Figs. 1-3). As likewise previously explained with reference to claim 1, by way of explanation, referring to FIG. 3 for embodiments of the invention, once the portal determines the merchant associated with the product code received 45, the portal 15 accesses a product data database at a web server of the merchant 20 via the Internet 46, which database contains information (e.g., a short description of the product, such as 'winter coat', a brand name of the product, a size, and a color) about the product associated with the 1129 product code, and the portal 15 retrieves that information from the database and sends the product data via the mobile network 30 to the mobile telephone 48, which displays the product data on the display screen of the mobile telephone for viewing by the consumer (See, e.g., Specification, p. 15, line 23-p. 16, line 10 and Figs. 1-3).

Independent claim 46 also proposes that the transaction portal server is further pre-programmed for receiving the customer's indication to purchase the product entered by the customer on the wireless communication device and for retrieving default payment method information for the customer from an electronic wallet server (See, e.g., Specification, p. 16, line

10-p. 17, line 7; and Figs. 1-3). As also previously explained with reference to claim 1, by way of explanation, in embodiments of the invention, the consumer provides a signal to the portal using the mobile telephone indicating that the consumer wishes to purchase the indicated product, e.g., by pressing "1" on the consumer's mobile telephone in response to the display of the product data, and the mobile telephone 10 sends the purchase indication to the portal 15 via the mobile network 30. The portal 15 receives the purchase indication from the mobile telephone 10, and accesses an electronic wallet 17 of the mobile telephone user 52, which electronic wallet is located, e.g., on the transaction portal server. The purchase indication includes, e.g., identifying data for the electronic wallet 17 that allows the portal 15 to access the wallet 17 (e.g., IP address, user name, and password), which includes, e.g., payment data related to the user 5 previously entered by the user, such as a preferred method of payment comprising a credit card type, number, and expiration date for the user 5, and also contains shipping detail data (a shipping address), as well as user-identifying information (e.g., name and e-mail address) (See, e.g., Specification, p. 16, line 10-p. 17, line 7 and Figs. 1-3).

Independent claim 46 also proposes that the transaction portal server is further pre-programmed for displaying the default payment information on the display screen of the wireless communication device for the customer and for receiving payment option data comprising information describing a desired means of payment for the product entered by the customer on the wireless communications device (See, e.g., Specification, p. 17, line 7-p. 18, line 1; and Figs. 1-3). As further previously explained with reference to claim 1, by way of explanation, in embodiments of the invention, the payment data from the wallet is displayed to the user 5 on the mobile telephone display, whereupon the user may select the information shown as correct (the shipping address and payment method) or may alter it to provide different shipping detail data and different method of payment selection. In addition, the wallet may contain previously-entered information related to various payment options (e.g., various credit card numbers and related information, and various debit card numbers and related information), and the user may choose from any one of the shown options, or enter a new method of payment. The shipping detail data and payment option data comprising data reflecting desired means of payment is sent from the mobile telephone 10 via the mobile network 30 to the portal 15, which receives the shipping detail data and payment option data reflecting the desired means of payment (credit

card) from the mobile telephone 54, 56 (See, e.g., Specification, p. 17, line 7-p. 18, line 1; and Figs. 1-3).

Independent claim 46 also proposes that the transaction portal server is further pre-programmed for transmitting payment authorization to a payment processor and for receiving a payment authorization from the payment processor (See, e.g., Specification, p. 18, lines 1-10; and Figs. 1-3). As explained with reference to claim 1, by way of explanation, according to embodiments of the invention, the portal 15 transmits payment authorization to a payment processor, such as the issuer of the credit card reflected in the payment option data, which payment authorization includes data identifying the user (e.g., the name from the electronic wallet), data identifying the merchant from which the product is being purchased, and data relating to the product purchased (e.g., a purchase price and an identifier). The payment processor 18 receives the data and provides authorization to the portal 15 (See, e.g., Specification, p. 18, lines 1-10; and Figs. 1-3).

Independent claim 46 also proposes that the transaction portal server is further pre-programmed for transmitting order information to a check-out application of the merchant server and causing the electronic wallet server to complete payment and shipping information fields in an order fulfillment database of the merchant server (See, e.g., Specification, p. 18, lines 11-24; and Figs. 1-3). As also previously explained with reference to claim 1, by way of explanation, according to embodiments of the invention, the portal 15 transmits order information to the merchant 20, e.g., to the check-out application (software) residing on the merchant's web site. The portal 15 causes the wallet 17 to automatically complete the fields in the merchant's order fulfillment database. Order information includes purchaser identification (e.g., name, address, e-mail address), product identification (e.g., product code), shipping instructions (e.g., shipping address), the authorization from the issuer, and payment option data comprising description of the means of payment (e.g., credit card number, type, and expiration date) 60. The payment option data sent to the check-out application comprises information from the electronic wallet of the mobile telephone user 5. The electronic wallet of the user residing on the portal transmits the order information to the merchant 20 (See, e.g., Specification, p. 18, lines 11-24; and Figs. 1-3).

Independent claim 46 also proposes that the transaction portal server is further pre-programmed for receiving order confirmation information from the merchant server and displaying the order confirmation information on the display screen of the wireless communication device for the customer (See, e.g., Specification, p. 18, lines 25-29; and Figs. 1-3). As likewise previously explained with reference to claim 1, by way of explanation, in embodiments of the invention, the merchant 20 provides an order confirmation to the purchaser 62. The merchant provides a confirmation page showing a order identification number to the portal 15, which provides the page to the mobile telephone 10. (See, e.g., Specification, p. 18, lines 25-29; and Figs. 1-3.)

(6) Grounds of Rejection to be Reviewed on Appeal

a) The Examiner's failure to comply with the requirement of 37 CFR § 41.39(a)(2) to file an Examiner's Answer to the previously filed Appeal Brief setting forth the Examiner's alleged new ground of rejection.

b) Claims 1, 4-7, 9, 10, 12, 14-16, 23, 25, 46, and 62-69 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Wharton (U.S. Appln No. 2005/0027610) in view of Arunachalam (U.S. Appln No. 2003/006922) and Daly (U.S. Pat. No. 5,878,141).

(7) Argument

The Examiner's Failure to Comply With the Requirement Of 37 CFR § 41.39(a)(2) to File an Examiner's Answer to the Previously Filed Appeal Brief Setting Forth the Examiner's Alleged New Ground of Rejection is Improper

37 C.F.R.§ 41.39(a)(2) explicitly provides that "An examiner's answer may include a new ground of rejection" whereupon 37 C.F.R.§ 41.39(b) gives the Appellant the options to either reopen prosecution and have an amendment relevant to the new ground of rejection reexamined and reconsidered under § 1.112 or maintain the appeal by filing a Reply Brief addressing the new ground of rejection. However, instead of filing an Examiner's Answer setting forth a new ground of rejection in response to the Appeal Brief previously filed by Appellants on November 17, 2006, as the Examiner clearly had the right to do under 37 C.F.R.§ 41.39(a), the Examiner sought to circumvent the provisions of 37 C.F.R.§ 41.39 by issuing a new Final Office Action

citing another secondary reference as a new ground of rejection in spite of the fact that no claims were amended since all claims were rejected in the previous Final Office Action that was addressed in the Appeal Brief previously filed by Appellants on November 17, 2006.

In response to an objection to the new Final Office Action made by the Appellants in a Response after the new Final Office Action, the Examiner claimed in an Advisory Action mailed March 19, 2008 that the new ground of rejection was necessitated by a claim amendment submitted on September 8, 2005, notwithstanding that the previous Appeal Brief was filed in an appeal from the previous final rejection of the claims as amended by the amendment submitted on September 8, 2005 and that there have been no further claim amendments. The Examiner's failure to comply with 37 C.F.R.§ 41.39 was improper.

The Examiner also had the authority (with approval from the supervisory patent examiner) under MPEP 1207.04 to reopen prosecution to enter a new ground of rejection after Appellants' Appeal Brief was filed and to make the new Office Action final, but only if necessitated by amendment. Clearly recognizing that the Examiner had no authority to reopen prosecution and issue a final rejection in the present case unless necessitated by an amendment, the Examiner claimed that the new ground of rejection was necessitated by the claim amendment submitted on September 8, 2005.

With respect, the Examiner's claim that the new ground of rejection was necessitated by Appellants' amendment of the claims appears to be disingenuous. As noted above, Appellants filed the amendment in response to a non-final Office Action on September 8, 2005 which amendment was duly entered. Thereafter, on November 30, 2005, the Examiner issued the previous Final Office Action from which the previous appeal was taken and in which the previous Appeal Brief was filed on November 17, 2006.

The claim amendment filed September 8, 2005 in response to the non-final Office Action was entered and the amended claims were rejected in the previous Final Office Action mailed on November 30, 2005. The Examiner failed to enter the present new ground of rejection at that time, and therefore tacitly admitted that Appellants' amendment did not necessitate the present final rejection. The Examiner cannot now reach past intervening events—including the

Examiner's own previous Final Office Action and Applicants' previous appeal—to claim that a nearly three-year-old amendment has necessitated this new ground of rejection. The Examiner's new ground of rejection was clearly not necessitated by the September 8, 2005 amendment. The Examiner's failure to comply with MPEP § 1207.04 was likewise improper.

The Examiner should be required to file an Examiner's Answer setting forth the new ground of rejection under 37 C.F.R.§ 41.39(a) if the Examiner chooses, and the Appellants should be afforded the options provided under 37 C.F.R.§ 41.39(b) to either reopen prosecution and have an amendment relevant to the new ground of rejection reexamined and reconsidered under § 1.112 or maintain the appeal by filing a Reply Brief addressing the new ground of rejection.

The Rejection of Claims 1, 4-7, 9, 10, 12, 14-16, 23, 25, 46, and 62-69 under 35 U.S.C. 103(a) as being unpatentable over Wharton (U.S. Appln No. 2005/0027610) in view of Arunachalam (U.S. Appln No. 2003/006922) and Daly (U.S. Pat. No. 5,878,141) is Improper

The proposed modification of Wharton in view of Arunachalam and Daly, either alone or in combination, lacks one or more limitations recited in each of independent claims 1 and 46 in at least the following respects.

- As admitted by the Examiner, Wharton fails to teach or suggest transmitting order information to a check-out application of the merchant server by the transaction portal server and causing the electronic wallet server to complete payment and shipping information fields in an order fulfillment database of the merchant server by the transaction portal server, and receiving by the transaction portal server order confirmation information from the merchant server and displaying the order confirmation information by the transaction portal server on the display screen of the wireless communication device for the customer, as recited in claims 1 and 46. Rather, Wharton discloses transmitting transaction packets from a vendor commerce system to the ICC transaction processor. When the customer in Wharton checks out, the ICC transaction processor engages one or more back-end

processing functions, including verifying the merchant and customer, accounting and billing, and order fulfillment. (See, e.g., Wharton, paras. 0040-0053).

- Nor does Wharton teach or suggest retrieving default payment method information for the customer by the transaction portal server from an electronic wallet server. Instead, Wharton discloses prompting a customer for customer-specific payment verification information, such as credit card information. (See, e.g., Wharton, paras. 0038-0042).
- Neither does Wharton teach or suggest a unique product and merchant identifying code entered by a customer on a wireless communication device. On the contrary, the customer in Wharton selects from vendors by clicking a hyperlink selection of a vendor and communicating directly with the merchant's server to conduct a local search and retrieval of the product stored in the merchant's local product catalog. (See, e.g., Wharton, paras. 0036-0038).

Arunachalam fails to remedy the deficiencies of Wharton for at least the following reasons:

- Arunachalam fails to teach or suggest transmitting order information to a check-out application of the merchant server by the transaction portal server and causing the electronic wallet server to complete payment and shipping information fields in an order fulfillment database of the merchant server by the transaction portal server, and receiving by the transaction portal server order confirmation information from the merchant server and displaying the order confirmation information by the transaction portal server on the display screen of the wireless communication device for the customer, as recited in independent claims 1 and 46. Instead, Arunachalam teaches a purchasing transaction with a credit card featuring billing processing by a Visa node and a data source. (See, e.g., Arunachalam, para. 0095). Accordingly, Arunachalam does not involve completion of payment information by an electronic wallet server. Also, Arunachalam teaches arranging delivery via a FedEx node, using data supplied by the client. (See, e.g., Arunachalam, para. 0096). Again, an electronic wallet

server does not provide the delivery information. Moreover, Arunachalam recites various nodes that process the checkout rather than the merchant's server.

- Instead of retrieving default payment method information for the customer by the transaction portal server from an electronic wallet server, as recited in independent claims 1 and 46, Arunachalam teaches a purchasing portion of a service transaction involving a "Visa node" for bill payment that is indicated by a client. (See, e.g., Arunachalam, paras. 0094-0095).
- Rather than a unique product and merchant identifying code entered by a customer on a wireless communication device, as recited in independent claims 1 and 46, Arunachalam teaches simply connecting to a service provider via a hub. (See, e.g., Arunachalam, para. 0094).

Likewise, Daly fails to remedy the deficiencies of Wharton and Arunachalam for at least the following reasons:

- Instead of transmitting order information to a check-out application of the merchant server by the transaction portal server and causing the electronic wallet server to complete payment and shipping information fields in an order fulfillment database of the merchant server by the transaction portal server, and receiving by the transaction portal server order confirmation information from the merchant server and displaying the order confirmation information by the transaction portal server on the display screen of the wireless communication device for the customer, as recited in claims 1 and 46, Daly teaches sending a purchase request from a purchasing terminal through a transaction processing unit, which gathers information related to the purchaser and the merchant. (See, e.g., Daly, Col. 7, ll. 1-25).
- Rather than teach or suggest retrieving default payment method information for the customer by the transaction portal server from an electronic wallet server, as recited in independent claims 1 and 46, Daly discloses payment methods registered by the purchaser with a purchasing system and placed on a purchaser

database. (See, e.g., Daly, Col. 5, ll. 49-52; Col. 7, ll. 54-56). Plainly, a purchaser database and an electronic wallet server are not the same thing.

- Rather than teach or suggest a unique product and merchant identifying code entered by a customer on a wireless communication device, as recited in independent claims 1 and 46, Daly discloses identifying the merchant itself. (See, e.g., Daly, Col. 7, ll. 3-5).

Further, regarding the Examiner's conclusory assertion that it would have been obvious to one of ordinary skill in the art to include a unique product and merchant identifying code entered by a customer on a wireless communication device, as recited in claims 1 and 46, "because doing so would identify the specific product of interest identified by the specific code". The Examiner's reasoning for the conclusion appears to be that, having first thought of identifying a product to purchase, one of ordinary skill would have seen the advantages in developing a system that involves a unique product and merchant identifying code entered by a customer on a wireless communication device. But the Examiner has not even shown how this follows, and has more critically failed to show that one of ordinary skill would have considered developing such a system to begin with.

> Often, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, this analysis should be made explicit. See In re Kahn, 441 F.3d 977, 988 (C.A.Fed.2006) ("[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness"). As our precedents make clear, however, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.

KSR Int'l v. Teleflex Inc., 127 S.Ct. 1727 at 1740-41 (2007). The Examiner's reasoning that the development of such a system would be obvious "because doing so would identify the specific

product of interest identified by the specific code" is conclusory in that it begins with the claim limitation and from that infers a generic benefit in hindsight. This is not a rational underpinning that shows a connection by articulated reasoning of what those of ordinary skill knew, leading to the claim limitation at issue. To purchase a particular item, a purchaser must indeed identify the desired item, but this identification certainly need not be done with an identifying code. Nor would a code be obvious when purchases could be made by identifying a merchant and product by name or otherwise. Wharton and/or Arunachalam and/or Daly do not recite this limitation, and the Examiner has not cited any other reference that does cite the limitation. Accordingly, the Examiner's assertion of obviousness fails to remedy the deficiencies of the cited references.

Consequently, Wharton and/or Arunachalam and/or Daly, separately or in combination with one another, do not recite the required combination of limitations of independent claims 1 and 46. Because the cited references, either alone or in combination, do not teach the limitations of independent claims 1 and 46, the Examiner has failed to establish the required *prima facie* case of unpatentability. See In re Royka, 490 F.2d 981, 985 (CCPA 1974) (holding that a *prima facie* case of obviousness requires the references to teach all of the limitations of the rejected claim); see also MPEP § 2143.03. Similarly, the Examiner has failed to establish the required *prima facie* case of unpatentability for claims 4-7, 9-10, 12, 14-16, 23, 25, and 62-69, which depend from independent claims 1 and 46.

(8) Conclusion

For at least the reasons given above, the rejection of claims 1, 4-7, 9, 10, 12, 14-16, 23, 25, 46, and 62-69 is improper. Applicants respectfully request the final rejection by the Examiner be reversed and claims 1, 4-7, 9, 10, 12, 14-16, 23, 25, 46, and 62-69 be allowed.

Respectfully submitted,

Date: May 19, 2008

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(9) Claims Appendix

1. A method of operating a computer system for data management of an electronic transaction comprising:

receiving in a transaction portal server via a wireless communication switching facility coupled to the transaction portal server over a global network a unique product and merchant identifying code entered by a customer on a wireless communication device coupled to the wireless communication switching facility and identifying a product and a merchant associated with the product and merchant identifying code by the transaction portal server from a database of the transaction portal server storing product and merchant identifying code data for a plurality of merchants;

retrieving product information data by the transaction portal server from a product database of a merchant server coupled to the transaction portal server over the global network and displaying the product information data by the transaction portal server on a display screen of the wireless communication device for the customer;

receiving by the transaction portal server the customer's indication to purchase the product entered by the customer on the wireless communication device and retrieving default payment method information for the customer by the transaction portal server from an electronic wallet server;

displaying the default payment information by the transaction portal server on the display screen of the wireless communication device for the customer and receiving payment option data comprising information describing a desired means of payment for the product by the transaction portal server entered by the customer on the wireless communications device;

transmitting payment authorization data to a payment processor by the transaction portal server and receiving a payment authorization by the transaction portal server from the payment processor;

transmitting order information to a check-out application of the merchant server by the transaction portal server and causing the electronic wallet server to complete payment and shipping information fields in an order fulfillment database of the merchant server by the transaction portal server; and

receiving by the transaction portal server order confirmation information from the merchant server and displaying the order confirmation information by the transaction portal server on the display screen of the wireless communication device for the customer .

4. The method of claim 1 further comprising receiving customer identification information.

5. The method of claim 4 further comprising determining an electronic wallet application on the electronic wallet server associated with the customer identification information.

6. The method of claim 5 further comprising accessing the electronic wallet application associated with the customer identification information on the electronic wallet server.

7. The method of claim 6 wherein receiving payment option data comprising information describing the desired means of payment for the product comprises accessing the electronic wallet application associated with the customer identification information on the electronic wallet server.

9. The method of claim 7 wherein the product information comprises the price of the product.

10. The method of claim 7 wherein the product information comprises at least one of the following: price of the product, description of attributes of the product, brand name of the product, and name of the product.

12. The method of claim 4 wherein receiving customer identification information comprises receiving customer identification information from the wireless communications device.

14. The method of claim 12 wherein the wireless communications device comprises a web browser.

15. The method of claim 14 wherein the wireless communications device comprises a wireless telephone.

16. The method of claim 14 wherein the wireless communications device comprises at least one of the following: a telephone, a personal computer, and a personal digital assistant.

23. The method of claim 1 wherein the transaction portal server is in communication with at least two merchant servers.

25. The method of claim 1 wherein the default payment method for the product comprises a credit card.

46. A computer system for data management of an electronic transaction comprising:

a transaction portal server pre-programmed for receiving via a wireless communication switching facility coupled to the transaction portal server over a global network a unique product and merchant identifying code entered by a customer on a wireless communications device coupled to the wireless communication switching facility and for identifying a product and a merchant associated with the product and merchant identifying code from a database of the transaction portal server storing product and merchant identifying code data for a plurality of merchants;

wherein the transaction portal server is further pre-programmed for retrieving product information data from a product database of a merchant server coupled to the transaction portal server over the global network and for displaying the product information on a display screen of the wireless communications device for the customer;

wherein the transaction portal server is further pre-programmed for receiving the customer's indication to purchase the product entered by the customer on the wireless

communication device and for retrieving default payment method information for the customer from an electronic wallet server;

wherein the transaction portal server is further pre-programmed displaying the default payment information on the display screen of the wireless communication device for the customer and for receiving payment option data comprising information describing a desired means of payment for the product entered by the customer on the wireless communications device;

wherein the transaction portal server is further pre-programmed for transmitting payment authorization to a payment processor and for receiving a payment authorization from the payment processor;

wherein the transaction portal server is further pre-programmed for transmitting order information to a check-out application of the merchant server and causing the electronic wallet server to complete payment and shipping information fields in an order fulfillment database of the merchant server; and

wherein the transaction portal server is further pre-programmed for receiving order confirmation information from the merchant server and displaying the order confirmation information on the display screen of the wireless communication device for the customer.

62. The method of claim 1 further comprising entering into a joint venture between a provider of the transaction portal server and a provider of the wireless communication switching facility.

63. The method of claim 62 further comprising providing the transaction portal server in communication with the wireless communication switching facility.

64. The method of claim 63 further comprising providing the customer access to the transaction portal server.

65. The method of claim 64 further comprising receiving by the operator of the wireless communication switching facility billing data reflecting a transaction between the merchant and the customer and providing a bill to the customer comprising the billing data.

66. The method of claim 65 wherein the bill further comprises billing for communications services.

67. The method of claim 66 wherein communications services comprises mobile telephone service.

68. The method of claim 67 wherein the provider of the wireless communication switching facility comprises a mobile telephone network operator.

69. The method of claim 68 wherein the provider of the transaction portal server comprises a bank.

(10) Evidence Appendix

There is no evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132 and no other evidence entered by the Examiner and relied on by Appellants in the appeal.

(11) Related Proceedings Appendix

There are no other decisions rendered by a court or the Board in any other appeals or interferences related to this case.